



General Assembly

February Session, 2012

**Amendment**

LCO No. 4447

**\*HB0545804447HD0\***

Offered by:

REP. LEMAR, 96<sup>th</sup> Dist.

To: Subst. House Bill No. 5458

File No. 225

Cal. No. 193

**"AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC  
ENFORCEMENT SAFETY DEVICES AT CERTAIN  
INTERSECTIONS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2012*) As used in this section  
4 and sections 2 to 4, inclusive, of this act:

5 (1) "Automated traffic enforcement safety device" means a device  
6 that (A) is capable of producing a photographically recorded still or  
7 video image, or combination thereof, of the rear of a motor vehicle or a  
8 motor vehicle being drawn by another motor vehicle, including an  
9 image of the vehicle's rear license plate; and (B) indicates on one or  
10 more of any such images produced, the date and time, and the location  
11 of such device;

12 (2) "Owner" means a person or persons in whose name a motor  
13 vehicle is registered under title 14 of the general statutes, or under the

14 laws of another state or country; and

15 (3) "Vendor" means a person who: (A) Provides services to a  
16 municipality under sections 2 to 4, inclusive, of this act; (B) operates,  
17 maintains, leases or licenses an automated traffic enforcement safety  
18 device; or (C) is authorized to review and assemble the recorded  
19 images captured by the automated traffic enforcement safety device,  
20 provided none of these activities shall be construed by the state or a  
21 traffic authority as providing or participating in private investigative  
22 services.

23 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) The Commissioner of  
24 Transportation may designate up to seven municipalities that may by  
25 ordinance authorize the use of automated traffic enforcement safety  
26 devices to enforce the provisions of section 14-299 of the general  
27 statutes within such municipality. Any such authorization shall expire  
28 on September 30, 2018. The commissioner shall make such designation  
29 on or before January 1, 2013, from applications submitted on a form  
30 prescribed by the commissioner as follows: (1) Not more than three  
31 municipalities with populations of more than one hundred twenty  
32 thousand, (2) not more than three municipalities with populations of  
33 more than forty-seven thousand but less than sixty thousand, and (3)  
34 not more than one municipality with a population of more than eighty  
35 thousand but less than eighty-six thousand.

36 (b) Any contract between a municipality enforcing an ordinance  
37 adopted under this section and a vendor shall not provide for payment  
38 to the vendor on a contingency basis.

39 (c) Before enforcing an ordinance adopted under this section, the  
40 municipality's police chief shall approve any proposed automated  
41 traffic enforcement safety device location, provided such device shall  
42 only be located at an intersection where the duration of the yellow  
43 signal light is no less than the duration of the yellow signal light  
44 recommended under regulations adopted by the State Traffic  
45 Commission, and the municipality shall install advance warning signs

46 along all approaches of the roadways preceding the intersection at  
47 which the automated traffic enforcement safety device is located. The  
48 advance warning signs shall (1) notify motorists of the existence of the  
49 automated traffic enforcement safety device, and (2) be located not less  
50 than one hundred feet from such intersection.

51 (d) Any ordinance adopted under this section shall specify that: (1)  
52 The owner of a motor vehicle commits a violation of the ordinance if  
53 the automated traffic enforcement safety device produces a recorded  
54 image or images of a motor vehicle or a motor vehicle being drawn by  
55 another motor vehicle proceeding through an intersection in violation  
56 of the provisions of section 14-299 of the general statutes; (2) the owner  
57 of a motor vehicle establishes a defense if the person identified as  
58 having the care, custody or control of the motor vehicle, or identified  
59 as the operator of the motor vehicle at the time of the violation, is not  
60 the owner; (3) payment of a penalty and associated costs and fees  
61 imposed for a violation of an ordinance adopted under this section  
62 may be made by electronic means; and (4) a designated employee of a  
63 vendor and a local police officer shall review and approve the  
64 recorded image or images before the notices referred to in subsection  
65 (f) of this section are mailed to the owner of the motor vehicle or the  
66 motor vehicle being drawn by another motor vehicle.

67 (e) An ordinance adopted under this section: (1) Shall impose a civil  
68 penalty of not more than fifty dollars; (2) may impose fees associated  
69 with the electronic processing of the payment of the civil penalty  
70 imposed for a violation of such ordinance, provided such fees do not  
71 exceed fifteen dollars; and (3) shall provide (A) that the civil penalty  
72 imposed for a violation of such ordinance may be applied to defray the  
73 costs of the installation, operation and maintenance of the automated  
74 traffic enforcement safety device and program, and (B) that any  
75 penalty not applied pursuant to subparagraph (A) of this subdivision  
76 be applied to the municipality's local transportation infrastructure  
77 improvements.

78 (f) The traffic authority of the municipality or its authorized agent

79 shall mail to the owner of a motor vehicle or a motor vehicle being  
80 drawn by another motor vehicle committing a violation of an  
81 ordinance adopted pursuant to this section, notice of the ordinance  
82 violation by first class mail postmarked not later than thirty days after  
83 obtaining the name and address of the owner of the motor vehicle, but  
84 not more than sixty days after the date of the alleged violation. The  
85 notice shall include: (1) The name and address of the owner of the  
86 motor vehicle or the motor vehicle being drawn by another motor  
87 vehicle; (2) the license plate number of the motor vehicle or the motor  
88 vehicle being drawn by another motor vehicle; (3) the violation  
89 charged; (4) the location of the intersection and the date and time of  
90 the violation; (5) a copy of or information on how to view, through  
91 electronic means, the recorded image described in this section; (6) a  
92 statement or electronically-generated affirmation by a designated  
93 employee of a vendor and local police officer, who have reviewed the  
94 recorded image described in this section and determined that the  
95 motor vehicle violated the ordinance; (7) the amount of the civil  
96 penalty imposed for the violation; (8) the date by which the civil  
97 penalty shall be paid if the owner of the vehicle does not choose to  
98 contest the violation; and (9) information on how to request a hearing  
99 to contest the violation. The date by which the civil penalty shall be  
100 paid shall be not later than thirty days after the issuance date of the  
101 violation if a defense described in this section does not apply or forty-  
102 five days after the issuance date of the violation if a defense described  
103 in this section requires the notice to be sent to another person.

104 (g) It is a defense in a proceeding to enforce an ordinance adopted  
105 under this section if the owner provides to the traffic authority of the  
106 municipality, or authorized agent for the municipality, an affidavit  
107 signed under the penalties of perjury which: (1) Asserts that, at the  
108 time of the alleged violation, the owner was engaged in the business of  
109 renting or leasing motor vehicles under written agreements; (2) asserts  
110 that, at the time of the alleged violation, the motor vehicle was in the  
111 care, custody or control of a person other than the owner or an  
112 employee of the owner of the motor vehicle or the vehicle being drawn

113 by another motor vehicle, under a written agreement for the rental or  
114 lease of the motor vehicle or the vehicle being drawn by another motor  
115 vehicle, for a period of not more than sixty days; and (3) provides to  
116 the traffic authority or authorized agent for the municipality the name  
117 and address of the person who was renting or leasing the motor  
118 vehicle or the vehicle being drawn by another motor vehicle at the  
119 time of the alleged violation.

120 (h) If the owner of a motor vehicle or a vehicle being drawn by  
121 another motor vehicle meets the requirements of subsection (g) of this  
122 section, the municipality's traffic authority or authorized agent shall  
123 mail, or electronically transfer, a notice of the violation to the person  
124 identified as having the care, custody or control of the motor vehicle or  
125 the vehicle being drawn by another motor vehicle at the time of the  
126 violation. The proof required under subsection (g) of this section  
127 creates a rebuttable presumption that the person having the care,  
128 custody or control of the motor vehicle or the vehicle being drawn by  
129 another motor vehicle at the time of the violation was the operator of  
130 the motor vehicle at the time of the violation. The notice required  
131 under this subsection shall contain the following: (1) The information  
132 described in subsection (f) of this section; (2) a statement that the  
133 person receiving the notice was identified by the owner of the motor  
134 vehicle or the vehicle being drawn by another motor vehicle as the  
135 person having the care, custody or control of the motor vehicle at the  
136 time of the violation; and (3) a statement that a person may offer a  
137 defense as described in this subsection, or in subsection (g) or (i) of this  
138 section.

139 (i) It is a defense to a proceeding to enforce an ordinance adopted  
140 under this section if the owner provides to the traffic authority an  
141 affidavit signed under penalty of perjury stating either of the  
142 following: (1) That the owner was not operating the motor vehicle or  
143 the motor vehicle drawing another vehicle at the time of the alleged  
144 violation and provides the name and address of the person operating  
145 the motor vehicle or the motor vehicle drawing a vehicle at the time of  
146 the alleged violation; or (2) that either: (A) The motor vehicle, or (B) the

147 license plate of the motor vehicle or the vehicle being drawn by  
148 another motor vehicle, was stolen before the alleged violation occurred  
149 and was not under the control or possession of the owner at the time of  
150 the alleged violation. In addition to such affidavit, the owner shall  
151 submit proof that a police report was filed concerning the stolen motor  
152 vehicle or stolen license plate.

153 (j) If the owner of a motor vehicle or a vehicle being drawn by  
154 another motor vehicle submits the evidence required under subsection  
155 (i) of this section, the municipality's traffic authority or authorized  
156 agent shall mail a notice of the violation to the person identified as the  
157 person operating the motor vehicle at the time of the violation. The  
158 proof required under subsection (i) of this section creates a rebuttable  
159 presumption that the person identified in the affidavit required under  
160 subsection (i) of this section was the operator of the motor vehicle at  
161 the time of the violation. The notice required under this subsection  
162 shall contain the following: (1) The information described in subsection  
163 (f) of this section; and (2) a statement that the person receiving the  
164 notice was identified by the owner of the motor vehicle as the person  
165 operating the motor vehicle at the time of the violation.

166 (k) It is a defense to a proceeding to enforce an ordinance adopted  
167 under this section if any of the following apply: (1) A person operating  
168 an authorized emergency vehicle may proceed past a red traffic control  
169 signal or traffic control device after slowing down as necessary for safe  
170 operation; (2) the traffic signal lights are not operating, and such is able  
171 to be observed on the recorded image; (3) the operator was complying  
172 with a lawful order or direction of a law enforcement officer, and such  
173 is able to be observed on the recorded image; (4) the operator was  
174 yielding right-of-way to an authorized emergency vehicle, and such is  
175 able to be observed on the recorded image; (5) the vehicle was  
176 participating in a funeral procession, and such is able to be observed  
177 on the recorded image; or (6) a traffic citation was issued to the  
178 operator of the motor vehicle for the violation by a state or local police  
179 officer.

180 (l) If it appears from the records of the local authority that has  
181 jurisdiction to enforce an ordinance adopted under this section that a  
182 person has failed to pay a violation by the applicable deadline  
183 established by this section without notification of an intent to contest  
184 the violation, the local authority shall send a notice to the person who  
185 is the registered owner of the motor vehicle or the vehicle being drawn  
186 by another motor vehicle that such person has an outstanding unpaid  
187 assessment.

188 (m) The chief executive officer of a municipality shall appoint one or  
189 more traffic control signal violation hearing officers, other than police  
190 officers or persons who work in the police department, to conduct the  
191 hearings authorized by this section.

192 (n) Any person who asserts a defense authorized by this section and  
193 who requests a hearing shall be given written notice of the date, time  
194 and place for the hearing. Such hearing shall be held not less than  
195 fifteen days or more than thirty days after the date of the mailing of  
196 notice, provided the hearing officer shall grant, upon good cause  
197 shown, any reasonable request by any interested party for  
198 postponement or continuance. An original or certified copy of the  
199 initial notice of violation shall be filed and retained by the  
200 municipality, be deemed to be a business record within the scope of  
201 section 52-180 of the general statutes and be evidence of the facts  
202 contained therein. A person wishing to contest such person's liability  
203 shall appear at the hearing and may present evidence on such person's  
204 behalf. The presence of the police officer who approved the issuance of  
205 the violation shall be required at the hearing if such person so requests.  
206 A designated municipal official, other than the hearing officer, may  
207 present evidence on behalf of the municipality. If the person who  
208 requested the hearing fails to appear, the hearing officer may enter an  
209 assessment by default against such person upon a finding of proper  
210 notice and liability under the applicable ordinance or statute. The  
211 hearing officer may accept from such person copies of police reports,  
212 documents of the Department of Motor Vehicles and other official  
213 documents by mail prior to the hearing and may determine thereby

214 that the appearance of such person is unnecessary. The hearing officer  
215 shall conduct the hearing in the order and form and with such  
216 methods of proof as the hearing officer deems fair and appropriate.  
217 The rules regarding the admissibility of evidence shall not be strictly  
218 applied, but all testimony shall be given under oath or affirmation. The  
219 hearing officer shall announce the hearing officer's decision at the end  
220 of the hearing. If the hearing officer determines that the person is not  
221 liable, the hearing officer shall dismiss the matter and enter the hearing  
222 officer's determination in writing accordingly. If the hearing officer  
223 determines that the person is liable for the violation, the hearing officer  
224 shall forthwith enter and assess the penalties, costs or fees against such  
225 person as provided by the applicable ordinances of the municipality.

226 Sec. 3. (NEW) (*Effective October 1, 2012*) Notwithstanding any  
227 provision of the general statutes, a violation of section 14-299 of the  
228 general statutes detected and recorded by an automated traffic control  
229 signal enforcement device pursuant to section 2 of this act shall not: (1)  
230 Constitute an infraction or violation; (2) be processed by the  
231 Centralized Infractions Bureau; (3) be considered a moving traffic  
232 violation; (4) be reported to the Department of Motor Vehicles for  
233 inclusion on a person's driving record; or (5) cause the assessment of  
234 points against the operator's license of the person found to have  
235 violated section 14-299 of the general statutes.

236 Sec. 4. (NEW) (*Effective October 1, 2012*) Not later than the latter of  
237 October 1, 2017, or twelve months following the date of  
238 implementation of an automated traffic enforcement safety device  
239 program by a municipality, each municipality that has installed such a  
240 device and has been operating such a program shall submit a report to  
241 the joint standing committee of the General Assembly having  
242 cognizance of matters relating to transportation. Such report shall  
243 include a comparison and analysis of: (1) The number of violations of  
244 section 14-299 of the general statutes that occurred at the intersections  
245 where such automated traffic control signal enforcement devices were  
246 used, prior to and during the use of such enforcement devices; (2) the  
247 number and type of related traffic violations and accidents that



248 occurred at such intersections prior to and during the use of such  
249 devices; and (3) the number of violations of section 14-299 of the  
250 general statutes and related violations and accidents that occurred at  
251 intersections where such control signal enforcement devices were used  
252 and at similar intersections where such automated traffic control signal  
253 enforcement devices were not used. The report shall also describe  
254 situations in which (A) camera results could not be used or were not  
255 used; (B) the number of leased, out-of-state or other vehicles, including  
256 trucks, where enforcement efforts were unsuccessful; (C) the amount  
257 of revenue from fines retained by the municipality; (D) the cost of such  
258 program to the municipality; and (E) such other data or comparisons  
259 deemed of interest or importance by the municipality."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section